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ILLINOIS AND MASSACHUSETTS PROBATION LAWS

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. It shall be the duty of the sheriff, jailer, constable and all other peace officers, who have notice or reason to anticipate lynching or mob violence of any kind to person or property in their bailiwick, to summon the power of the county and use all the means at their command diligently to protect such person or property. Any officer failing in his duty as herein provided shall be liable on his official bond to any person for all damages sustained thereby.

SEC. 2. Any collection of persons assembled for an unlawful purpose or intending to do injury to anyone or his property without authority of law, shall be regarded as a mob, and any act of violence wilfully done by them to any person shall constitute a lynching.

SEC. 3. It shall be the duty of any officer named in the first section of this act, who has custody of any prisoner, to use diligently all the means at his command to protect such prisoner from mob violence; and if any prisoner shall be taken from the custody of any such officer and lynched by a mob, it shall be prima facie a misfeasance in office by such officer, and it shall be the duty of the Governor to suspend him at once from office and appoint another to discharge the duties of the office, while he is suspended. It shall be the duty of the commonwealth attorney immediately to file in the circuit clerk's office any information against such officer, charging him with said misfeasance in office. The case shall be set for the second day of the next term of the court beginning not less than ten days after the summons is served, and shall have preference over other business. If the officer shall show that he used all the means at his command with due diligence and care, as provided by this act, and notwithstanding this, was unable to protect the prisoner, he shall be acquitted and his suspension from office shall terminate. But if he is found guilty the office shall be declared vacant.

SEC. 4. All laws or parts of laws in conflict herewith are repealed.

W. B. MOONY, New Castle, Ky.

Illinois and Massachusetts Probation Laws.—A law providing for a "System of Probation," and legalizing the ultimate discharge without punishment of persons found guilty of certain defined crimes and offenses, became operative in the State of Illinois during the past year.

A somewhat similar law has been in operation in Massachusetts since 1878, and for more than twenty years the appointment of a probation officer in every municipal, police and district court has been mandatory.

A comparison of the provisions of these two laws is interesting and serves as an illustration of the different methods by which communities approach the solution of similar problems.

For instance, the Illinois law limits the offenses for which a person may be released on probation, while, on the other hand, in Massachusetts "the court may place the person so convicted (of any crime or offense) in care of the probation officer." The Illinois law with other limitations therein mentioned provides that those guilty of "larceny, embezzlement, and malicious mischief, when the property taken or converted or where the injury does not exceed \$200 in value," and "burglary, when the amount feloniously taken does not exceed \$200 in value," may be placed on probation. It would seem that the limitations named in the law are as reasonable as any that could be devised,

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but as one examines the law it seems that no good reason appears for this discrimination.

The intent in the mind of the one committing a crime is the important factor in deciding the action which should be taken by the community. A man forms the intention of picking a pocket. Whether the victim has \$199 or \$201 in his pocket at the time is a mere accident, but it is fair to assume that the intent on the part of the thief is to take all that he finds therein. Hence, it would seem that for the purpose of determining the action of the court a consideration of the intent is better than the determination of the value of the property taken.

The Illinois law defines the terms and conditions of probation, while in Massachusetts the court may place a person on probation "for such time and upon such conditions as may seem proper." The Massachusetts court determines in advance the ordinary conditions of probation, but may vary these conditions or the length of the probation period in each individual case.

In Illinois an excellent form is provided for the discharge of probationers at the end of their probation period. The Massachusetts law is silent on this very important matter, but the practice in most courts is to formally discharge the person if his conduct has been satisfactory, a report to this effect being made by the probation officer at the end of the probation period.

Police officers may be appointed probation officers in Illinois, but if appointed "shall receive no additional compensation because of such appointment." The Massachusetts law provides that "probation officers shall not be active members of the regular police force," and thus makes them ineligible for appointment as probation officers.

The Section of the Illinois law which defines the duties of the probation officers is admirable and a valuable addition to probation practice. While the duties therein described are those generally performed by Massachusetts probation officers, the Massachusetts law does not attempt to clearly define such duties.

Probation officers in Illinois are appointed "for the period of one year, unless sooner removed," while in Massachusetts they "shall hold office during the pleasure of the court which makes the appointment."

"Probation," as defined by the American Institute of Criminal Law and Criminology, "is a judicial system by which an offender against penal law, instead of being punished by a sentence, is given an opportunity to reform himself under supervision, and subject to conditions imposed by the court, with the end in view that if he shows evidence of being reformed no penalty for his offense will be imposed."

The main purpose of probation seems to be the reform of the individual, and the most effective law must be the one which leaves to the presiding justice of the court the greatest discretion in order that the probationary conditions may include the proper remedy in each case.

The International Prison Congress declares that "No person, no matter whatever his age or past record, should be assumed to be incapable of improvement." With this declaration in mind, our effort should be to have a law with provisions so broad that the court, in the exercise of a wise discretion, may apply its beneficent features to every deserving person.

EDWIN MULREADY, Deputy Commissioner on Probation, Boston.